IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5139 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SALIMBHAI DIWAN

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 5139 of 2000

MR MM TIRMIZI for Petitioners No. 1-2

MR VM PANCHOLI Ld. APP for Respondent No. 1

MR DN TRIVEDI for Respondent No. 2

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 20/02/2002

ORAL JUDGEMENT

Heard learned counsel for petitioners Mr. Anil

Varma for Mr. MM Tirmizi and Ld. APP Mr. Pancholi for respondent no. 1-State. Learned counsel for original complainant is absent.

During the course of oral submissions, learned APP has pointed out certain facts reflected from the police papers.

The day on which this petition was listed for admission hearing on 18.9.2000 the court has granted ad interim relief in terms of Para-7(B). It is the say of both the petitioners that false and frivolous complaint has been filed by respondent no. 2 in the Mangrol Police Station vide CR No. I-62/2000 for the offence punishable under sec. 366 and 379 of IPC. It has been alleged in the complaint that daughter of the complainant namely Jigisha has committed theft of Rs. 5000/ as well as gold chain and the petitioner no. 1 had enticed the petitioner no. 2 for marrying him.

Undisputedly, on the date of incident, the daughter of the complainant was aged about 23 years and was serving Primary School Teacher. It seems that as she had selected a Muslim boy as her life partner and had intended to marry, there was resistance from the complainant. It is on record that both the petitioners have now married and marriage registration certificate is also produced vide Annexure-B. Both the petitioners had sent an application to the District Collector, Surat and D.S.P., Surat as they were apprehending some harassment from the complainant side. It is also contended specifically in the petition that they were also apprehending their false implication in criminal proceedings.

The complaint is delayed by several days i.e. 9 days. The totality of facts and circumstances of the case takes this Court to a conclusion that the complaint is basically false and has been filed with a view to see that the court process is misused. The allegation of theft should be viewed with utmost doubt though the court is normally read the basic allegations made in the complaint. The ratio of the decision in the case of State of Haryana & Ors vs. Ch. Bhajan Lal and Ors. reported in 1992 AIR SCW 237 is squarely applicable to the facts of this case where this Court should invoke its inherent powers for quashing of complaint.

Hence, this application is allowed. The Criminal Complaint being FIR No. I-62/2000 registered with Mangrol Police Station, District Surat is hereby quashed

and set aside and the proceedings initiated on account of said FIR are also hereby turned down.

Rule made absolute accordingly.

(C.K. BUCH, J.)
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